



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-2744/2

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IN 919  
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~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

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1 AN ACT *to renumber* 48.981 (9); *to amend* 48.981 (9) (title); *to repeal and*  
2 *recreate* 48.981 (7) (cr); and *to create* 48.981 (9) (a) (title) and 48.981 (9) (b)  
3 of the statutes; **relating to:** public disclosure of certain information when child  
4 abuse or neglect results in death or serious injury or involves aggravated  
5 circumstances or when a child in an out-of-home placement commits suicide  
6 or is sexually abused by a caregiver.

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***Analysis by the Legislative Reference Bureau***

***Introduction***

Under current federal law, to be eligible for a grant under the Child Abuse Prevention and Treatment Act (commonly referred to as "CAPTA"), a state must have in effect a state plan that includes, among other things, provisions that allow for public disclosure of findings and information about a case of child abuse or neglect that has resulted in a child fatality or near fatality. This bill eliminates the current state law that under certain circumstances *permits* disclosure to the general public of certain information relating to a child who has died or been placed in serious or critical condition as a result of suspected abuse or neglect (child fatality or near fatality) and instead *requires* certain information to be made available to the public:

1. When an incident occurs in which a child has died or been placed in serious or critical condition as a result of suspected abuse or neglect or in which a child who has been placed outside the home under an order of the court assigned to exercise

jurisdiction under the Children's Code or the Juvenile Justice Code (juvenile court) has committed suicide (incident of death or serious injury).

2. When an incident of suspected abuse or neglect occurs, other than an incident of death or serious injury, that involves significant violence, multiple victims, the use of inappropriate or cruel restraints, exposure of a child to a dangerous situation, or other aggravated circumstances (incident of egregious abuse or neglect).

3. When a child who is placed outside the home is sexually abused by his or her foster or treatment foster parent or the relative in whose home the child is placed, by any other person who resides in the foster or treatment foster home or in the home of the relative, by any relative of the foster or treatment foster parent or relative, or by any employee, contractor, or volunteer of the group home, shelter care facility, or residential care center for children and youth in which the child is placed (sexual abuse by a caregiver).

***Current law — disclosure permitted***

***When disclosure is permitted.*** Under current law, a county department of human services or social services or, in Milwaukee County, the Department of Children and Families (DCF) or a child welfare agency that is responsible for investigating reports of suspected or threatened child abuse or neglect (agency) is permitted to disclose to the general public a written summary of certain information relating to a child fatality or near fatality if any of the following circumstances apply:

1. A person has been charged with a crime for causing the child fatality or near fatality.

2. A judge, district attorney, law enforcement officer or agency, or any other officer or agency whose duties include the investigation or prosecution of crime has previously disclosed to the public that the suspected abuse or neglect that caused the child fatality or near fatality has been investigated or that child welfare services have been provided to the child or the child's family.

3. A parent, guardian, or legal custodian of the child or the child, if 14 years of age or over, has previously disclosed or authorized the disclosure of the information.

***What disclosure is permitted.*** The information that may be disclosed in cases of a child fatality or near fatality is as follows:

1. A description of any investigation made by the agency in response to the report of the suspected abuse or neglect; a statement of the determination made by the agency as to whether abuse or neglect occurred and the basis for that determination; a statement of whether any services were offered or provided to the child, the child's family, or the person suspected of the abuse or neglect; and a statement of whether any other action was taken by the agency to protect the child who is the subject of the report or any other child residing in the same dwelling as that child.

2. Whether any previous report of suspected or threatened abuse or neglect of the child has been made to the agency and the date of the report; a statement of the determination made by the agency as to whether abuse or neglect occurred and the basis for that determination; a statement of whether any services were offered or provided to the child, the child's family, or the person suspected of the abuse or

neglect; and a statement of whether any other action was taken by the agency to protect the child who is the subject of the report or any other child residing in the same dwelling as that child.

3. Whether the child or the child's family has received any child welfare services prior to the report of the suspected abuse or neglect that caused the child fatality or near fatality or prior to any previous report of suspected or threatened abuse or neglect.

**When disclosure is not permitted.** An agency may not disclose such information if any of the following circumstances apply:

1. The agency determines that disclosure of the information would be contrary to the best interests of the child, the child's siblings, or any other child residing in the same dwelling as the child or that disclosure of the information is likely to cause mental, emotional, or physical harm or danger to and of those person or any other person.

2. The district attorney determines that disclosure of the information would jeopardize any ongoing or future criminal investigation or prosecution or would jeopardize a defendant's right to a fair trial.

3. The agency determines that disclosure of the information would jeopardize any ongoing or future civil investigation or proceeding or would jeopardize the fairness of the proceeding.

4. Disclosure of the information is not authorized by state law or rule or federal law or regulation.

5. The investigation of the abuse or neglect report has not been completed.

6. Disclosure of the information would reveal the identity of the child, the child's siblings, the child's parents, guardian, or legal custodian, or any other person residing in the same dwelling as the child.

7. Disclosure of the information would reveal the identity of the person who reported the suspected abuse or neglect that caused the child fatality or near fatality or any other person who provides information relating to that suspected abuse or neglect.

#### **The bill — disclosure required**

**Incidents of death or serious injury.** This bill eliminates current law relating to disclosure to the general public of information about a child fatality or near fatality. Instead, the bill requires an agency that has reason to suspect that an incident of death or serious injury has occurred to provide to the subunit of DCF responsible for statewide oversight of child abuse and neglect programs, within two working days after determining that such an incident is suspected to have occurred, the age, gender, and race or ethnicity of the child; the date of the incident; the suspected cause of the death or serious injury; a brief history of the child welfare services offered or provided to the child, members of the child's family, and the person suspected of the abuse or neglect; a statement of whether the child was placed in his or her home or outside the home when the incident occurred; and the identity of any law enforcement agency that referred the report of the incident to the agency and of any law enforcement agency, district attorney, or other officer or agency to which the agency referred the report of the incident.

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The subunit of DCF then is required to disclose to the public, within two working days after receiving that information, the fact that the subunit has received the information; whether DCF is conducting an investigation of the incident and, if so, the scope of the investigation and the identities of any other agencies with which DCF is cooperating in conducting the investigation; whether the child was placed in the home or in an out-of-home placement at the time of the incident; and information about the child, including the age, gender, and race or ethnicity of the child.

Within 90 days after receiving the information, the subunit of DCF must prepare and make available to the public a summary report about the incident. That subunit may also include in the summary report a summary of any changes in policies or practices that have been made to address any issues raised in the investigation and recommendations for any further changes in policies, practices, rules, or statutes that may be needed to address those issues. If the subunit does not include those changes and recommended changes in the summary report, the subunit must prepare and make available to the public a report of those changes and recommended changes within six months after receiving the information.

If the child was placed in his or her home when the incident of death or serious injury occurred, the summary report must contain all of the following:

1. Information about the child, including the age, gender, and race or ethnicity of the child, a description of the child's family, and, if relevant to the incident, a description of any special needs of the child.
2. A statement of whether any child welfare services were being provided to the child, any member of the child's family, or the person suspected of the abuse or neglect, or whether any of those persons was the subject of a referral to the agency for services, at the time of the incident and, if so, the date of the last contact between the agency providing those services and the person receiving those services.
3. A summary of all involvement of the child's parents and of the person suspected of the abuse or neglect in receiving child welfare services in the five years preceding the date of the incident.
4. A summary of any actions taken by the agency with respect to the child, any member of the child's family, and the person suspected of the abuse or neglect, including any referrals by the agency of any of those persons for services.
5. The date of the incident and the suspected cause of the death or serious injury as reported by the agency.
6. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury has occurred, including any material circumstances leading to the death or serious or critical condition of the child.
7. A summary of any services that have been provided to the child's family since the date of the incident.

If the child was placed in an out-of-home placement at the time of the incident of death or serious injury, the summary report must contain all of the following:

1. Information about the child, including the age, gender, and race or ethnicity of the child and, if relevant to the incident, a description of any special needs of the child.

2. A description of the out-of-home placement, including the basis for the decision to place the child in that placement.

3. A description of all other persons residing in the out-of-home placement.

4. The licensing history of the out-of-home placement, including the type of license held by the operator of the placement, the period for which the placement has been licensed, and a summary of all violations by the licensee of any provisions of licensure or rules promulgated by DCF and of any other actions by the licensee or an employee of the licensee that constitute a substantial failure to protect and promote the health, safety, and welfare of a child.

5. The date of the incident and the suspected cause of the death <sup>or serious injury</sup> as reported by the agency. <sup>or an incident of egregious abuse or neglect</sup>

6. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury <sup>or egregious abuse or neglect</sup> has occurred, including any material circumstances leading to the death <sup>or critical condition</sup> of the child.

~~**Incidents of egregious abuse or neglect.** Under current law, each agency that receives or investigates a report of suspected child abuse or neglect must provide DCF with information about each report that it receives or investigation that it conducts.~~

~~This bill requires the subunit of DCF that receives information from an agency about an incident of egregious abuse or neglect, within two working days after receiving the information, to disclose to a child fatality review team, a citizen review panel, and, in Milwaukee County, the Milwaukee child welfare partnership council the same information that must be disclosed to the public by that subunit within two working days after receiving information about an incident of death or serious injury. That subunit must also disclose that information to any other person on request.~~

**Incidents of sexual abuse by a caregiver.** Current law requires DCF to submit an annual report to the governor and the legislature on the status of the child abuse and neglect programs administered by DCF. The report must include a full statistical analysis of the child abuse and neglect reports made through the last calendar year, an evaluation of the child abuse and neglect services offered by DCF and their effectiveness, and recommendations for additional legislation and other actions to fulfill the purposes of the child abuse and neglect reporting law.

This bill requires DCF, within 30 days after the end of each calendar quarter, to prepare and transmit to the governor, and to the appropriate standing committee of the legislature, a summary report of all reports received by DCF during <sup>the previous</sup> that calendar quarter of incidents of sexual abuse by a caregiver. DCF must provide for each report included in the summary report the number of incidents of abuse reported; the dates of those incidents; the county in which those incidents occurred; the age or age group of the child who is the subject of the report; the type of placement in which the child was placed at the time of the incident; whether it was determined under the child abuse reporting law that abuse occurred; and whether the abuse resulted in injury, disease, or pregnancy. Those standing committees must review all summary reports transmitted to those committees, conduct public hearings on those summary reports no less often than annually, and submit recommendations to

DCF regarding those summary reports. DCF must also make those summary reports available to the public.

**What disclosure is prohibited.** A summary report of an incident of death or serious injury, ~~a disclosure of information concerning~~ an incident of egregious abuse or neglect, and a quarterly report of incidents of sexual abuse by a caregiver may not include any of the following:

1. Any information that would reveal the identity of the child who is the subject of the summary report ~~disclosure~~ or incident reported in the quarterly report; any member of the child's family; any member of the child's household who is a child; or any caregiver of the child.

2. Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided child welfare services to the child or that participated in the investigation of the incident.

3. Any information that would reveal the identity of the reporter of the incident or of any other person who provides information relating to the incident.

4. Any information the disclosure of which would not be in the best interests of the child who is the subject of the summary report ~~disclosure~~ or quarterly report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by the subunit of DCF that received the information, after consultation with the agency that reported the incident of death or serious injury or the incident of egregious abuse or neglect and the district attorney and juvenile court of the county in which the incident occurred, and after balancing the interest of the child, family or household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining that information.

5. Any information the disclosure of which is not authorized by state law or rule or federal law or regulation.

**When disclosure is prohibited.** Finally, under the bill, the subunit of DCF that prepares a summary report of an incident of death or serious injury, ~~a disclosure of information concerning~~ an incident of egregious abuse or neglect, ~~on a quarterly report of incidents of sexual abuse by a caregiver may not make the summary report or disclosure~~ available to the public or include any information about an incident of sexual abuse by a caregiver in the quarterly report if the subunit determines that making the summary report ~~or disclosure~~ available or including the information in the quarterly report would jeopardize: 1) any ongoing or future criminal investigation or prosecution or a defendant's right to a fair trial; or 2) any ongoing or future civil investigation or proceeding or the fairness of such a proceeding.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

1           **SECTION 1.** 48.981 (7) (cr) of the statutes is repealed and recreated to read:

2           48.981 (7) (cr) 1. In this paragraph:

3           a. "Incident of death or serious injury" means an incident in which a child has  
4           died or been placed in serious or critical condition, as determined by a physician, as  
5           a result of any suspected abuse or neglect that has been reported under this section  
6           or in which a child who has been placed outside the home by a court order under this  
7           chapter or ch. 938 is suspected to have committed suicide.

8           b. "Incident of egregious abuse or neglect" means an incident of suspected  
9           abuse or neglect that has been reported under this section, other than an incident  
10          of death or serious injury, involving significant violence, torture, multiple victims,  
11          the use of inappropriate or cruel restraints, exposure of a child to a dangerous  
12          situation, or other similar, aggravated circumstances.

*or an incident of egregious  
abuse or neglect  
abuse or neglect*

13          2. Notwithstanding par. (a), if an agency that receives a report under sub. (3)  
14          has reason to suspect that an incident of death or serious injury has occurred, within  
15          2 working days after determining that such an incident is suspected to have occurred  
16          the agency shall provide all of the following information to the subunit of the  
17          department responsible for statewide oversight of child abuse and neglect programs:

18          a. The name of the agency and the name of a contact person at the agency.

19          b. Information about the child, including the age, gender, and race or ethnicity  
20          of the child.

*or egregious abuse or neglect  
egregious abuse or neglect*

21          c. The date of the incident and the suspected cause of the death or serious injury  
22          of the child.

23          d. A brief history of the services under this chapter offered or provided to the  
24          child, members of the child's family, and the person suspected of the abuse or neglect.

1 e. A statement of whether the child was ~~placed~~ <sup>residing</sup> in his or her home or <sup>was placed</sup> outside  
2 the home when the incident occurred.

3 f. The identity of any law enforcement agency that referred the report of the  
4 incident and of any law enforcement agency, district attorney, or other officer or  
5 agency to which the report of the incident was referred.

6 3. a. Within 2 working days after receiving the information provided under  
7 subd. 2., the subunit of the department that received the information shall disclose  
8 to the public the fact that the subunit has received the information; whether the  
9 department is conducting <sup>at a review</sup> ~~an investigation~~ of the incident and, if so, the scope of the  
10 <sup>review</sup> ~~investigation~~ and the identities of any other agencies with which the department is  
11 <sup>at that point</sup> ~~cooperating in~~ conducting the <sup>review</sup> ~~investigation~~; whether the child was <sup>residing</sup> ~~placed~~ in the  
12 <sup>was placed</sup> home or in an out-of-home placement at the time of the incident; and information  
13 about the child, including the age, ~~gender, and race or ethnicity~~ of the child.

14 b. Within 90 days after receiving the information provided under subd. 2., the  
15 subunit of the department that received the information shall prepare and make  
16 available to the public a summary report that contains the information specified in  
17 subd. 4. or 5., whichever is applicable. That subunit may also include in the summary  
18 report a summary of any changes in policies or practices that have been made to  
19 <sup>review</sup> ~~investigation~~ address any issues raised in the ~~investigation~~ and recommendations for any further  
20 changes in policies, practices, rules, or statutes that may be needed to address those  
21 issues. If the subunit does not include those changes and recommended changes in  
22 the summary report, the subunit shall prepare and make available to the public a  
23 report of those changes and recommended changes within 6 months after receiving  
24 the information provided under subd. 2.

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or the incident of egregious  
abuse or neglect

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① 4. If the child ~~was placed~~ in his or her home when the incident of death or  
② serious injury occurred, the summary report under subd. 3. shall contain all of the  
3 following:

④ a. Information about the child, including the age, ~~gender, and race or ethnicity~~  
5 of the child, a description of the child's family, and, if relevant to the incident, a  
6 description of any special needs of the child.

7 b. A statement of whether any services under this chapter were being provided  
8 to the child, any member of the child's family, or the person suspected of the abuse  
9 or neglect, or whether any of those persons was the subject of a referral to the agency  
10 for services, at the time of the incident and, if so, the date of the last contact between  
11 the agency providing those services and the person receiving those services.

12 c. A summary of all involvement of the child's parents and of the person  
13 suspected of the abuse or neglect in receiving services under this chapter in the 5  
14 years preceding the date of the incident.

15 d. A summary of any actions taken by the agency with respect to the child, any  
16 member of the child's family, and the person suspected of the abuse or neglect,  
17 including any referrals by the agency of any of those persons for services.

①⑧ e. The date of the incident and the suspected cause of the death ~~or serious injury~~  
19 of the child, as reported by the agency under subd. 2. c.   
or egregious abuse or neglect

20 f. The findings on which the agency bases its reasonable suspicion that an  
②① incident of death ~~or serious~~ injury has occurred, including any material  
②② circumstances leading to the death ~~or serious~~ ~~or a critical condition~~ of the child.  
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23 g. A summary of any services that have been provided to the child's family since  
24 the date of the incident.

or incident of egregious abuse or neglect  
or incident of egregious abuse or neglect

1 5. If the child was placed in an out-of-home placement at the time of the  
2 incident of death or serious injury, the summary report under subd. 3. shall contain  
3 all of the following:

4 a. Information about the child, including the age, ~~gender, and race or ethnicity~~  
5 of the child and, if relevant to the incident, a description of any special needs of the  
6 child.

7 b. A description of the out-of-home placement, including the basis for the  
8 decision to place the child in that placement.

9 c. A description of all other persons residing in the out-of-home placement.

10 d. The licensing history of the out-of-home placement, including the type of  
11 license held by the operator of the placement, the period for which the placement has  
12 been licensed, and a summary of all violations by the licensee of any provisions of  
13 licensure under s. 48.70 (1) or rules promulgated by the department under s. 48.67  
14 and of any other actions by the licensee or an employee of the licensee that constitute  
15 a substantial failure to protect and promote the health, safety, and welfare of a child.

16 e. The date of the incident and the suspected cause of the death ~~or serious injury~~  
17 of the child, as reported by the agency under subd. 2. c. ~~or egregious abuse or neglect~~  
~~or egregious abuse or neglect~~

18 f. The findings on which the agency bases its reasonable suspicion that an  
19 ~~incident of death or serious injury~~ ~~or an incident of egregious abuse or neglect~~  
20 ~~circumstances leading to the death of a serious or critical condition~~ ~~injury or egregious abuse or neglect~~  
~~of the child.~~

21 ~~6. Within 2 working days after receiving information under sub. (3) (c) 8. about~~  
22 ~~an incident of egregious abuse or neglect, the subunit of the department that receives~~  
23 ~~the information shall disclose to a child fatality review team, as described in par. (a)~~  
24 ~~15., a citizen review panel, as described in par. (a) 16., and, in a county having a~~  
25 ~~population of 500,000 or more, the Milwaukee child welfare partnership council the~~

fact that the subunit has received the information; whether the department is conducting an investigation of the incident and, if so, the scope of the investigation and the identities of any other agencies with which the department is cooperating in conducting the investigation; whether the child was placed in the home or in an out-of-home placement at the time of the incident; and information about the child including the age, gender, and race or ethnicity of the child. That subunit shall also disclose that information to any other person on request.

(6) A summary report under subd. 3. ~~or a disclosure under subd. 6~~ may not include any of the following:

a. Any information that would reveal the identity of the child who is the subject of the summary report ~~or disclosure~~, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child.

b. Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided services under this chapter to the child or that participated in the investigation of the incident of death or serious injury or the incident of egregious abuse or neglect.

c. Any information that would reveal the identity of a reporter or of any other person who provides information relating to the incident of death or serious injury or the incident of egregious abuse or neglect.

d. Any information the disclosure of which would not be in the best interests of the child who is the subject of the summary report ~~or disclosure~~, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by the subunit of the department that received the information, after consultation with the agency that reported the incident of death or serious injury or the incident of egregious abuse or neglect and the district

1 attorney and court of the county in which the incident occurred, and after balancing  
2 the interest of the child, family or household member, or caregiver in avoiding the  
3 stigma that might result from disclosure against the interest of the public in  
4 obtaining that information.

5 e. Any information the disclosure of which is not authorized by state law or rule  
6 or federal law or regulation.

7 1. The subunit of the department that prepares a summary report under subd.

8 3. ~~or that makes a disclosure under subd. 2~~ may not make the summary report ~~if~~

9 ~~disclosure~~ available to the public if the subunit determines that making the

10 summary report ~~or disclosure~~ available to the public would jeopardize any of the

11 following:

12 a. Any ongoing or future criminal investigation or prosecution or a defendant's  
13 right to a fair trial.

14 b. Any ongoing or future civil investigation or proceeding or the fairness of such  
15 a proceeding.

16 8. If the department fails to disclose to the public any information that the  
17 department is required to disclose under this paragraph, any person may request the  
18 department to disclose that information. If the person's request is denied, the person  
19 may petition the court to order the disclosure of that information. On receiving a  
20 petition under this subdivision, the court shall notify the department, the agency, the  
21 district attorney, the child, and the child's parent, guardian, or legal custodian of the  
22 petition. If any person notified objects to the disclosure, the court may hold a hearing  
23 to take evidence and hear argument relating to the disclosure of the information.  
24 The court shall make an in camera inspection of the information sought to be

disclosed and shall order disclosure of the information, unless the court finds that any of the circumstances specified in subd. 7. ~~(b) & (c)~~ apply.

Any person acting in good faith in providing information under subd. 2. or

in preparing, transmitting, or making available a summary report under subd. 3. ~~or~~

~~a disclosure under subd. 6)~~ is immune from any liability, civil or criminal, that may

result by reason of those actions. For purposes of any proceeding, civil or criminal,

the good faith of a person in providing information under subd. 2. or in preparing,

transmitting, or making available a summary report under subd. 3. ~~or a disclosure~~

~~under subd. 6)~~ shall be presumed.

**SECTION 2.** 48.981 (9) (title) of the statutes is amended to read:

48.981 (9) (title) ANNUAL AND QUARTERLY REPORTS.

**SECTION 3.** 48.981 (9) of the statutes is renumbered 48.981 (9) (a).

**SECTION 4.** 48.981 (9) (a) (title) of the statutes is created to read:

48.981 (9) (a) (title) *Annual reports.*

**SECTION 5.** 48.981 (9) (b) of the statutes is created to read:

48.981 (9) (b) *Quarterly reports.* Within 30 days after the end of each calendar quarter, the department shall prepare and transmit to the governor, and to the appropriate standing committees of the legislature under s. 13.172 (3), a summary report of all reports received by the department under sub. (3) (c) 8. during ~~that~~

calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who is placed in the home of a foster parent, treatment foster parent, or relative other than a parent or in a group home, shelter care facility, or residential care center for children and youth by that foster parent, treatment foster parent, or relative, by any other person who resides in the home of the foster parent, treatment foster parent, or relative, by any relative of the foster parent, treatment foster parent, or relative, or by any

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1 employee, contractor, or volunteer of the group home, shelter care facility, or  
 2 residential care center for children and youth. The department shall provide for each  
 3 report included in the summary report the number of incidents of abuse reported; the  
 4 dates of those incidents; the county in which those incidents occurred; the age or age  
 5 group of the child who is the subject of the report; the type of placement in which the  
 6 child was placed at the time of the incident; whether it was determined under sub.  
 7 (3) (c) 4. that abuse occurred; and whether the abuse resulted in injury, disease, or  
 8 pregnancy, but may not provide any of the information specified in sub. (7) (cr) <sup>6</sup> or  
 9 any information that would jeopardize an investigation, prosecution, or proceeding  
 10 described in sub. (7) (cr) <sup>1</sup> a. or b. Those committees shall review all summary  
 11 reports transmitted under this paragraph, conduct public hearings on those  
 12 summary reports no less often than annually, and submit recommendations to the  
 13 department regarding those summary reports. The department shall also make  
 14 those summary reports available to the public.

### SECTION 6. Initial applicability.

16 (1) INCIDENT REPORTING. This act first applies to an incident of death or serious  
 17 injury, as defined in section 48.981 (7) (cr) 1. a. of the statutes, or an incident of  
 18 egregious abuse or neglect, as defined in section 48.981 (7) (cr) 1. b. of the statutes,  
 19 that occurs on the effective date of this subsection.

### SECTION 7. Effective date.

21 (1) ~~INCIDENT REPORTING~~ This act takes effect on the first day of the 3rd month  
 22 beginning after publication <sup>(except as follows:)</sup>

(END)

23 of the statutes <sup>(#)</sup> ~~takes effect on the date stated in the notice provided by the~~  
 of the statutes <sup>of the statutes</sup> ~~takes effect on the date stated in the notice provided by the~~  
 secretary of children and families and published in the Wisconsin Administrative Register  
 under section 48.62(9) of the statutes or on the first day of the 3rd month beginning  
 after publication whichever is later.

The amendment of section 48.981(9)(b)  
 The amendment of section 48.981(9)(b)

Treatment Foster homes

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disclosed and shall order disclosure of the information, unless the court finds that any of the circumstances specified in subd. 7. or 8. apply.

10. Any person acting in good faith in providing information under subd. 2. or in preparing, transmitting, or making available a summary report under subd. 3. or a disclosure under subd. 6. is immune from any liability, civil or criminal, that may result by reason of those actions. For purposes of any proceeding, civil or criminal, the good faith of a person in providing information under subd. 2. or in preparing, transmitting, or making available a summary report under subd. 3. or a disclosure under subd. 6. shall be presumed.

SECTION 2. 48.981 (9) (title) of the statutes is amended to read:

48.981 (9) (title) ANNUAL AND QUARTERLY REPORTS.

SECTION 3. 48.981 (9) of the statutes is renumbered 48.981 (9) (a).

SECTION 4. 48.981 (9) (a) (title) of the statutes is created to read:

48.981 (9) (a) (title) Annual reports.

SECTION 5. 48.981 (9) (b) of the statutes ~~is created~~ to read:

48.981 (9) (b) Quarterly reports. Within 30 days after the end of each calendar

quarter, the department shall prepare and transmit to the governor, and to the

appropriate standing committees of the legislature under s. 13.172 (3), a summary

report of all reports received by the department under sub. (3) (c) 8. during ~~that~~

calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who is placed

in the home of a foster parent, ~~treatment foster parent,~~ or relative other than a parent

or in a group home, shelter care facility, or residential care center for children and

youth by that foster parent, ~~treatment foster parent,~~ or relative, by any other person

who resides in the home of the foster parent, ~~treatment foster parent,~~ or relative, by

any relative of the foster parent, ~~treatment foster parent,~~ or relative, or by any

was created by 2009 Wisconsin Act 1  
00004 (this act) is amended

the previous  
previous  
(plain)

Grant 14-14

1 employee, contractor, or volunteer of the group home, shelter care facility, or  
2 residential care center for children and youth. The department shall provide for each  
3 report included in the summary report the number of incidents of abuse reported; the  
4 dates of those incidents; the county in which those incidents occurred; the age or age  
5 group of the child who is the subject of the report; the type of placement in which the  
6 child was placed at the time of the incident; whether it was determined under sub.  
7 (3) (c) 4. that abuse occurred; and whether the abuse resulted in injury, disease, or  
8 pregnancy, but may not provide any of the information specified in sub. (7) (c) <sup>6</sup> or  
9 any information that would jeopardize an investigation, prosecution, or proceeding  
10 described in sub. (7) (c) <sup>3</sup> a. or b. Those committees shall review all summary  
11 reports transmitted under this paragraph, conduct public hearings on those  
12 summary reports no less often than annually, and submit recommendations to the  
13 department regarding those summary reports. The department shall also make  
14 those summary reports available to the public.

#### SECTION 6. Initial applicability.

16 (1) INCIDENT REPORTING. This act first applies to an incident of death or serious  
17 injury, as defined in section 48.981 (7) (c) 1. a. of the statutes, or an incident of  
18 egregious abuse or neglect, as defined in section 48.981 (7) (c) 1. b. of the statutes,  
19 that occurs on the effective date of this subsection.

#### SECTION 7. Effective date.

21 (1) INCIDENT REPORTING. This act takes effect on the first day of the 3rd month  
22 beginning after publication.

(END)

(ced at mt)

Insert 8-24

unk

§ 10.00 Subdivision ~~10.00~~ 3.00 & 4.00 do not preclude the  
 subunit of the department that prepares the summary report from  
 releasing ~~any~~ to the public any of the information specified in  
 subd. 4.00 or 5.00 before the summary report is made available to the  
 public, adding to or amending ~~the~~ summary report if new information  
 specified in subd. 4.00 or 5.00 is received after the summary report is  
 made available to the public, or releasing to the public any of the  
 information specified in subd. 4.00 or 5.00 ~~at any time~~ to correct any inaccurate information  
 reported in the news media.

(end of int)

Insert A

¶ Those <sup>public</sup> disclosure and summary report requirements do not preclude  
 the submitter of ~~the~~ DCS from releasing to the public any of the  
 information required to be provided in a summary report before the  
 summary report is made available to the public, adding to or  
 amending a summary report if new <sup>required</sup> information is received  
 after the summary report is made available to the public,  
 or releasing to the public any <sup>required</sup> ~~other~~ information ~~required to be~~  
~~provided in a summary report~~ at any time to correct any  
 inaccurate information reported in the news media.

Cost not

## Malaise, Gordon

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**From:** Kahn, Carrie  
**Sent:** Friday, September 11, 2009 8:44 AM  
**To:** Malaise, Gordon  
**Cc:** McGinnis, Cindy; Sappenfield, Anne  
**Subject:** disclosure draft

Hi Gordon,

As a follow-up to our conversation yesterday afternoon regarding the disclosure bill, please find those and some additional changes we found that need to be made on both the Senate and Assembly drafts:

- ✓ p. 9 lines 1-4: we do not want to limit the Department's ability to correct inaccuracies reported by the media only to information they would convey in the summary report. They may correct any inaccuracies. However, we want to make sure they still may not report what they are also not able to put in the summary report such as revealing the identity of the child, reporter, best interests, etc. on page 11)
- ✓ p. 9 line 8 (child residing in home) P. 10 line 10 (child residing out-of-home) after "including age" we should insert "gender, and race or ethnicity".
- ✓ p. 10 line 2 misspelled serious
- ✓ p. 10 line 5 insert underlined: "A summary of any services that have been provided to the child and the child's family since the date of the incident
- ✓ p. 11 line 19 "injury or the incident of egregious abuse or neglect or the district attorney or court of the county in which the incident occurred..."  
we do not want the Department to have to consult with every one of these entities, just at least one.

Thanks for your urgent attention to this bill. Please let me know when these changes can be completed by.

Thanks!

Carrie Kahn  
Legislative Assistant  
State Senator Bob Jauch  
P.O. Box 7882  
Madison, WI 53707-7882

608-266-3510  
1-800-469-6562

*Also - restore disclosure to citizen review panel  
& Milwaukee child welfare p'ship council if  
incident of egregious abuse or neglect*

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**From:** McGinnis, Cindy  
**Sent:** Thursday, September 10, 2009 5:04 PM  
**To:** Sappenfield, Anne; Kahn, Carrie  
**Subject:** RE: disclosure draft

Ladies-

- ✓ Another omission. I know the dept. said they may not have gender and race info within 2 days, but surely they'll have it by the time the summary report is due, so on P. 10 line 10 after "including age" we should insert "gender, and race or ethnicity". This was on p 9 line 17 of the P1 draft

Cindy

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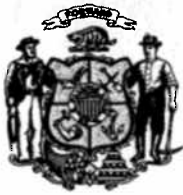
**From:** Sappenfield, Anne  
**Sent:** Thursday, September 10, 2009 3:42 PM  
**To:** McGinnis, Cindy; Kahn, Carrie  
**Subject:** disclosure draft

Hi Cindy and Carrie,

On p. 9, lines 2 to 4, the information that may be disclosed to correct an inaccuracy reported by the media is limited to summary report information. I don't think this was your intent. Could you look at it? Drafting-wise, it fits very neatly into the draft, but, obviously, the language should reflect what you intend. Otherwise, I think it looks good.

By the way, Carrie, I just spoke with Cindy about introducing the draft as a committee bill, and my only thought is that you should notice it on the exec notice for that day.

*Anne Sappenfield*  
Senior Staff Attorney  
WI Legislative Council  
(608) 267-9485



State of Wisconsin  
2009 - 2010 LEGISLATURE

IN 9/11  
TODAY!!!

2009 BILL

LRB-2744/1  
GMM:bjk:md

stays  
+ WLj  
2  
RMR

Regen

- 1 AN ACT ~~to renumber~~ 48.981 (9); **to amend** 48.981 (9) (title) and 48.981 (9) (b);  
2 **to repeal and recreate** 48.981 (7) (cr); and **to create** 48.981 (9) (a) (title) and  
3 48.981 (9) (b) of the statutes; **relating to:** public disclosure of certain  
4 information when child abuse or neglect results in death or serious injury or  
5 involves aggravated circumstances or when a child in an out-of-home  
6 placement commits suicide or is sexually abused by a caregiver.

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**Analysis by the Legislative Reference Bureau**

**Introduction**

Under current federal law, to be eligible for a grant under the Child Abuse Prevention and Treatment Act (commonly referred to as "CAPTA"), a state must have in effect a state plan that includes, among other things, provisions that allow for public disclosure of findings and information about a case of child abuse or neglect that has resulted in a child fatality or near fatality. This bill eliminates the current state law that under certain circumstances *permits* disclosure to the general public of certain information relating to a child who has died or been placed in serious or critical condition as a result of suspected abuse or neglect (child fatality or near fatality) and instead *requires* certain information to be made available to the public:

1. When an incident occurs in which a child has died or been placed in serious or critical condition as a result of suspected abuse or neglect or in which a child who

**BILL**

has been placed outside the home under an order of the court assigned to exercise jurisdiction under the Children's Code or the Juvenile Justice Code (juvenile court) has committed suicide (incident of death or serious injury).

2. When an incident of suspected abuse or neglect occurs, other than an incident of death or serious injury, that involves significant violence, multiple victims, the use of inappropriate or cruel restraints, exposure of a child to a dangerous situation, or other aggravated circumstances (incident of egregious abuse or neglect).

3. When a child who is placed outside the home is sexually abused by his or her foster or treatment foster parent or the relative in whose home the child is placed, by any other person who resides in the foster or treatment foster home or in the home of the relative, by any relative of the foster or treatment foster parent or relative, or by any employee, contractor, or volunteer of the group home, shelter care facility, or residential care center for children and youth in which the child is placed (sexual abuse by a caregiver).

***Current law — disclosure permitted***

***When disclosure is permitted.*** Under current law, a county department of human services or social services or, in Milwaukee County, the Department of Children and Families (DCF) or a child welfare agency that is responsible for investigating reports of suspected or threatened child abuse or neglect (agency) is permitted to disclose to the general public a written summary of certain information relating to a child fatality or near fatality if any of the following circumstances apply:

1. A person has been charged with a crime for causing the child fatality or near fatality.

2. A judge, district attorney, law enforcement officer or agency, or any other officer or agency whose duties include the investigation or prosecution of crime has previously disclosed to the public that the suspected abuse or neglect that caused the child fatality or near fatality has been investigated or that child welfare services have been provided to the child or the child's family.

3. A parent, guardian, or legal custodian of the child or the child, if 14 years of age or over, has previously disclosed or authorized the disclosure of the information.

***What disclosure is permitted.*** The information that may be disclosed in cases of a child fatality or near fatality is as follows:

1. A description of any investigation made by the agency in response to the report of the suspected abuse or neglect; a statement of the determination made by the agency as to whether abuse or neglect occurred and the basis for that determination; a statement of whether any services were offered or provided to the child, the child's family, or the person suspected of the abuse or neglect; and a statement of whether any other action was taken by the agency to protect the child who is the subject of the report or any other child residing in the same dwelling as that child.

2. Whether any previous report of suspected or threatened abuse or neglect of the child has been made to the agency and the date of the report; a statement of the determination made by the agency as to whether abuse or neglect occurred and the basis for that determination; a statement of whether any services were offered or

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provided to the child, the child's family, or the person suspected of the abuse or neglect; and a statement of whether any other action was taken by the agency to protect the child who is the subject of the report or any other child residing in the same dwelling as that child.

3. Whether the child or the child's family has received any child welfare services prior to the report of the suspected abuse or neglect that caused the child fatality or near fatality or prior to any previous report of suspected or threatened abuse or neglect.

***When disclosure is not permitted.*** An agency may not disclose such information if any of the following circumstances apply:

1. The agency determines that disclosure of the information would be contrary to the best interests of the child, the child's siblings, or any other child residing in the same dwelling as the child or that disclosure of the information is likely to cause mental, emotional, or physical harm or danger to and of those person or any other person.

2. The district attorney determines that disclosure of the information would jeopardize any ongoing or future criminal investigation or prosecution or would jeopardize a defendant's right to a fair trial.

3. The agency determines that disclosure of the information would jeopardize any ongoing or future civil investigation or proceeding or would jeopardize the fairness of the proceeding.

4. Disclosure of the information is not authorized by state law or rule or federal law or regulation.

5. The investigation of the abuse or neglect report has not been completed.

6. Disclosure of the information would reveal the identity of the child, the child's siblings, the child's parents, guardian, or legal custodian, or any other person residing in the same dwelling as the child.

7. Disclosure of the information would reveal the identity of the person who reported the suspected abuse or neglect that caused the child fatality or near fatality or any other person who provides information relating to that suspected abuse or neglect.

***The bill — disclosure required***

***Incidents of death or serious injury or egregious abuse or neglect.*** This bill eliminates current law relating to disclosure to the general public of information about a child fatality or near fatality. Instead, the bill requires an agency that has reason to suspect that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred to provide to the subunit of DCF responsible for statewide oversight of child abuse and neglect programs, within two working days after determining that such an incident is suspected to have occurred, the age of the child; the date of the incident; the suspected cause of the death, serious injury, or egregious abuse or neglect; a brief history of the child welfare services offered or provided to the child, members of the child's family, and the person suspected of the abuse or neglect; a statement of whether the child was residing in his or her home or was placed outside the home when the incident occurred; and the identity of any law enforcement agency that referred the report of the incident to the agency and of

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If the information received is about an incident of egregious abuse or neglect, the subunit of DCF must also make the same disclosure to a citizen review panel and, in Milwaukee County, the Milwaukee child welfare partnership council, any law enforcement agency, district attorney, or other officer or agency to which the agency referred the report of the incident.

The subunit of DCF then is required to disclose to the public, within two working days after receiving that information, the fact that the subunit has received the information; whether DCF is conducting a review of the incident and, if so, the scope of the review and the identities of any other agencies with which DCF is cooperating at that point in conducting the review; whether the child was residing in the home or was placed in an out-of-home placement at the time of the incident; and information about the child, including the age of the child.

Within 90 days after receiving the information, the subunit of DCF must prepare and make available to the public a summary report about the incident. That subunit may also include in the summary report a summary of any changes in policies or practices that have been made to address any issues raised in the review and recommendations for any further changes in policies, practices, rules, or statutes that may be needed to address those issues. If the subunit does not include those changes and recommended changes in the summary report, the subunit must prepare and make available to the public a report of those changes and recommended changes within six months after receiving the information.

Those public disclosure and summary report requirements do not preclude the subunit of DCF from releasing to the public any of the information required to be provided in a summary report (required information) before the summary report is made available to the public, adding to or amending a summary report if new required information is received after the summary report is made available to the public, or releasing to the public any ~~relevant~~ information at any time to correct any inaccurate information reported in the news media.

If the child was residing in his or her home when the incident of death or serious injury or the incident of egregious abuse or neglect occurred, the summary report must contain all of the following:

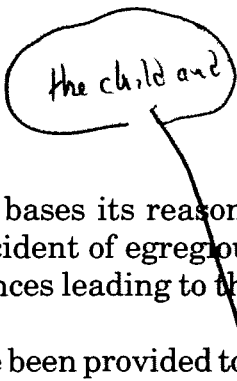
1. Information about the child, including the age of the child, a description of the child's family, and, if relevant to the incident, a description of any special needs of the child.

2. A statement of whether any child welfare services were being provided to the child, any member of the child's family, or the person suspected of the abuse or neglect, or whether any of those persons was the subject of a referral to the agency for services, at the time of the incident and, if so, the date of the last contact between the agency providing those services and the person receiving those services.

3. A summary of all involvement of the child's parents and of the person suspected of the abuse or neglect in receiving child welfare services in the five years preceding the date of the incident.

4. A summary of any actions taken by the agency with respect to the child, any member of the child's family, and the person suspected of the abuse or neglect, including any referrals by the agency of any of those persons for services.

5. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect as reported by the agency.

**BILL**NOTthe child and

6. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.

7. A summary of any services that have been provided to the child's family since the date of the incident.

If the child was placed in an out-of-home placement at the time of the incident of death or serious injury or incident of egregious ~~abuse or neglect~~, the summary report must contain all of the following:

1. Information about the child, including the age of the child and, if relevant to the incident, a description of any special needs of the child.

2. A description of the out-of-home placement, including the basis for the decision to place the child in that placement.

3. A description of all other persons residing in the out-of-home placement.

4. The licensing history of the out-of-home placement, including the type of license held by the operator of the placement, the period for which the placement has been licensed, and a summary of all violations by the licensee of any provisions of licensure or rules promulgated by DCF and of any other actions by the licensee or an employee of the licensee that constitute a substantial failure to protect and promote the health, safety, and welfare of a child.

5. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect, as reported by the agency.

6. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.

***Incidents of sexual abuse by a caregiver.*** Current law requires DCF to submit an annual report to the governor and the legislature on the status of the child abuse and neglect programs administered by DCF. The report must include a full statistical analysis of the child abuse and neglect reports made through the last calendar year, an evaluation of the child abuse and neglect services offered by DCF and their effectiveness, and recommendations for additional legislation and other actions to fulfill the purposes of the child abuse and neglect reporting law.

This bill requires DCF, within 30 days after the end of each calendar quarter, to prepare and transmit to the governor, and to the appropriate standing committee of the legislature, a summary report of all reports received by DCF during the previous calendar quarter of incidents of sexual abuse by a caregiver. DCF must provide for each report included in the summary report the number of incidents of abuse reported; the dates of those incidents; the county in which those incidents occurred; the age or age group of the child who is the subject of the report; the type of placement in which the child was placed at the time of the incident; whether it was determined under the child abuse reporting law that abuse occurred; and whether the abuse resulted in injury, disease, or pregnancy. Those standing committees must review all summary reports transmitted to those committees, conduct public hearings on those summary reports no less often than annually, and submit

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, any other release &amp; information concerning such an incident,

recommendations to DCF regarding those summary reports. DCF must also make those summary reports available to the public.

**What disclosure is prohibited.** A summary report of an incident of death or serious injury or an incident of egregious abuse or neglect and a quarterly report of incidents of sexual abuse by a caregiver may not include any of the following:

1. Any information that would reveal the identity of the child who is the subject of the summary report or incident reported in the quarterly report; any member of the child's family; any member of the child's household who is a child; or any caregiver of the child.

2. Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided child welfare services to the child or that participated in the investigation of the incident.

3. Any information that would reveal the identity of the reporter of the incident or of any other person who provides information relating to the incident.

4. Any information the disclosure of which would not be in the best interests of the child who is the subject of the summary report or quarterly report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by the subunit of DCF that received the information, after consultation with the agency that reported the incident of death or serious injury or the incident of egregious abuse or neglect and the district attorney and juvenile court of the county in which the incident occurred, and after balancing the interest of the child, family or household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining that information.

5. Any information the disclosure of which is not authorized by state law or rule or federal law or regulation.

**When disclosure is prohibited.** Finally, under the bill, the subunit of DCF that prepares a summary report of an incident of death or serious injury or an incident of egregious abuse or neglect or that prepares a quarterly report of incidents of sexual abuse by a caregiver may not make the summary report available to the public or include any information about an incident of sexual abuse by a caregiver in the quarterly report if the subunit determines that making the summary report available or including the information in the quarterly report would jeopardize: 1) any ongoing or future criminal investigation or prosecution or a defendant's right to a fair trial; or 2) any ongoing or future civil investigation or proceeding or the fairness of such a proceeding.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

1 SECTION 1. 48.981 (7) (cr) of the statutes is repealed and recreated to read:

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1           48.981 (7) (cr) 1. In this paragraph:

2           a. "Incident of death or serious injury" means an incident in which a child has  
3           died or been placed in serious or critical condition, as determined by a physician, as  
4           a result of any suspected abuse or neglect that has been reported under this section  
5           or in which a child who has been placed outside the home by a court order under this  
6           chapter or ch. 938 is suspected to have committed suicide.

7           b. "Incident of egregious abuse or neglect" means an incident of suspected  
8           abuse or neglect that has been reported under this section, other than an incident  
9           of death or serious injury, involving significant violence, torture, multiple victims,  
10          the use of inappropriate or cruel restraints, exposure of a child to a dangerous  
11          situation, or other similar, aggravated circumstances.

12          2. Notwithstanding par. (a), if an agency that receives a report under sub. (3)  
13          has reason to suspect that an incident of death or serious injury or an incident of  
14          egregious abuse or neglect has occurred, within 2 working days after determining  
15          that such an incident is suspected to have occurred the agency shall provide all of the  
16          following information to the subunit of the department responsible for statewide  
17          oversight of child abuse and neglect programs:

18           a. The name of the agency and the name of a contact person at the agency.

19           b. Information about the child, including the age of the child.

20           c. The date of the incident and the suspected cause of the death, serious injury,  
21          or egregious abuse or neglect of the child.

22           d. A brief history of the services under this chapter offered or provided to the  
23          child, members of the child's family, and the person suspected of the abuse or neglect.

24           e. A statement of whether the child was residing in his or her home or was  
25          placed outside the home when the incident occurred.

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If the information received is about an incident of egregious abuse or neglect, the subunit of the department shall make the same disclosure to a citizen review panel, as described in

f. The identity of any law enforcement agency that referred the report of the incident and of any law enforcement agency, district attorney, or other officer or agency to which the report of the incident was referred.

3. a. Within 2 working days after receiving the information provided under subd. 2., the subunit of the department that received the information shall disclose to the public the fact that the subunit has received the information; whether the department is conducting a review of the incident and, if so, the scope of the review and the identities of any other agencies with which the department is cooperating at that point in conducting the review; whether the child was residing in the home or was placed in an out-of-home placement at the time of the incident; and information about the child, including the age of the child.

b. Within 90 days after receiving the information provided under subd. 2., the subunit of the department that received the information shall prepare and make available to the public a summary report that contains the information specified in subd. 4. or 5., whichever is applicable. That subunit may also include in the summary report a summary of any changes in policies or practices that have been made to address any issues raised in the review and recommendations for any further changes in policies, practices, rules, or statutes that may be needed to address those issues. If the subunit does not include those changes and recommended changes in the summary report, the subunit shall prepare and make available to the public a report of those changes and recommended changes within 6 months after receiving the information provided under subd. 2.

c. Subdivision 3. a. and b. <sup>es</sup>do not preclude the subunit of the department that prepares the summary report from releasing to the public any of the information specified in subd. 4. or 5. before the summary report is made available to the public,

page (a)  
and  
500  
In a county having a population  
of 500,000 or more, the  
Milwaukee  
child welfare  
partnership  
council

**BILL**

1 adding to or amending a summary report if new information specified in subd. 4. or  
2 5. is received after the summary report is made available to the public, or releasing  
3 to the public any ~~of the~~ information ~~specified in subd. 4. or 5.~~ at any time to correct  
4 any inaccurate information reported in the news media.

5 4. If the child was residing in his or her home when the incident of death or  
6 serious injury or the incident of egregious abuse or neglect occurred, the summary  
7 report under subd. 3. shall contain all of the following:

8 a. Information about the child, including the age of the child, a description of  
9 the child's family, and, if relevant to the incident, a description of any special needs  
10 of the child.

11 b. A statement of whether any services under this chapter were being provided  
12 to the child, any member of the child's family, or the person suspected of the abuse  
13 or neglect, or whether any of those persons was the subject of a referral to the agency  
14 for services, at the time of the incident and, if so, the date of the last contact between  
15 the agency providing those services and the person receiving those services.

16 c. A summary of all involvement of the child's parents and of the person  
17 suspected of the abuse or neglect in receiving services under this chapter in the 5  
18 years preceding the date of the incident.

19 d. A summary of any actions taken by the agency with respect to the child, any  
20 member of the child's family, and the person suspected of the abuse or neglect,  
21 including any referrals by the agency of any of those persons for services.

22 e. The date of the incident and the suspected cause of the death, serious injury,  
23 or egregious abuse or neglect of the child, as reported by the agency under subd. 2.

24 c.

## BILL

## SECTION 1

Serious

1 f. The findings on which the agency bases its reasonable suspicion that an  
2 incident of death or ~~serious~~ injury or an incident of egregious abuse or neglect has  
3 occurred, including any material circumstances leading to the death, serious injury,  
4 or egregious abuse or neglect of the child. 

the child and

5 g. A summary of any services that have been provided to the child's family since  
6 the date of the incident. 

gender and race or ethnicity

7 5. If the child was placed in an out-of-home placement at the time of the  
8 incident of death or serious injury or incident of egregious abuse or neglect, the  
9 summary report under subd. 3. shall contain all of the following:

10 a. Information about the child, including the age of the child and, if relevant  
11 to the incident, a description of any special needs of the child.

12 b. A description of the out-of-home placement, including the basis for the  
13 decision to place the child in that placement.

14 c. A description of all other persons residing in the out-of-home placement.

15 d. The licensing history of the out-of-home placement, including the type of  
16 license held by the operator of the placement, the period for which the placement has  
17 been licensed, and a summary of all violations by the licensee of any provisions of  
18 licensure under s. 48.70 (1) or rules promulgated by the department under s. 48.67  
19 and of any other actions by the licensee or an employee of the licensee that constitute  
20 a substantial failure to protect and promote the health, safety, and welfare of a child.

21 e. The date of the incident and the suspected cause of the death, serious injury,  
22 or egregious abuse or neglect of the child, as reported by the agency under subd. 2.

23 c.

24 f. The findings on which the agency bases its reasonable suspicion that an  
25 incident of death or serious injury or an incident of egregious abuse or neglect has

## BILL

(Not)

or other release of information

or disclosure

1 occurred, including any material circumstances leading to the death, serious injury,  
2 or egregious abuse or neglect of the child.

3 6. A summary report under subd. 3. may not include any of the following:

4 a. Any information that would reveal the identity of the child who is the subject  
5 of the summary report, any member of the child's family, any member of the child's  
6 household who is a child, or any caregiver of the child.

7 b. Any information that would reveal the identity of the person suspected of the  
8 abuse or neglect or any employee of any agency that provided services under this  
9 chapter to the child or that participated in the investigation of the incident of death  
10 or serious injury or the incident of egregious abuse or neglect.

11 c. Any information that would reveal the identity of a reporter or of any other  
12 person who provides information relating to the incident of death or serious injury  
13 or the incident of egregious abuse or neglect.

14 d. Any information the disclosure of which would not be in the best interests  
15 of the child who is the subject of the summary report, any member of the child's  
16 family, any member of the child's household who is a child, or any caregiver of the  
17 child, as determined by the subunit of the department that received the information,  
18 after consultation with the agency that reported the incident of death or serious  
19 injury or the incident of egregious abuse or neglect and the district attorney

20 of the county in which the incident occurred, and after balancing the interest of the  
21 child, family or household member, or caregiver in avoiding the stigma that might  
22 result from disclosure against the interest of the public in obtaining that  
23 information.

24 e. Any information the disclosure of which is not authorized by state law or rule  
25 or federal law or regulation.

1 7. The subunit of the department that prepares a summary report under subd.  
2 3. may not make the summary report available to the public if the subunit  
3 determines that making the summary report available to the public would jeopardize  
4 any of the following:

5 a. Any ongoing or future criminal investigation or prosecution or a defendant's  
6 right to a fair trial.

7 b. Any ongoing or future civil investigation or proceeding or the fairness of such  
8 a proceeding.

9 8. If the department fails to disclose to the public any information that the  
10 department is required to disclose under this paragraph, any person may request the  
11 department to disclose that information. If the person's request is denied, the person  
12 may petition the court to order the disclosure of that information. On receiving a  
13 petition under this subdivision, the court shall notify the department, the agency, the  
14 district attorney, the child, and the child's parent, guardian, or legal custodian of the  
15 petition. If any person notified objects to the disclosure, the court may hold a hearing  
16 to take evidence and hear argument relating to the disclosure of the information.  
17 The court shall make an in camera inspection of the information sought to be  
18 disclosed and shall order disclosure of the information, unless the court finds that  
19 any of the circumstances specified in subd. 6. or 7. apply.

20 9. Any person acting in good faith in providing information under subd. 2. ~~or~~  
21 in preparing, transmitting, or making available a summary report under subd. 3. is  
22 immune from any liability, civil or criminal, that may result by reason of those  
23 actions. For purposes of any proceeding, civil or criminal, the good faith of a person  
24 in providing information under subd. 2. ~~or~~ in preparing, transmitting, or making  
25 available a summary report under subd. 3. shall be presumed.

or disclosing  
or in otherwise releasing information under subd. 3.

(the rule)

**BILL**

**SECTION 2.** 48.981 (9) (title) of the statutes is amended to read:

48.981 (9) (title) ANNUAL AND QUARTERLY REPORTS.

**SECTION 3.** 48.981 (9) of the statutes is renumbered 48.981 (9) (a).

**SECTION 4.** 48.981 (9) (a) (title) of the statutes is created to read:

48.981 (9) (a) (title) *Annual reports.*

**SECTION 5.** 48.981 (9) (b) of the statutes is created to read:

48.981 (9) (b) *Quarterly reports.* Within 30 days after the end of each calendar quarter, the department shall prepare and transmit to the governor, and to the appropriate standing committees of the legislature under s. 13.172 (3), a summary report of all reports received by the department under sub. (3) (c) 8. during the previous calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who is placed in the home of a foster parent, treatment foster parent, or relative other than a parent or in a group home, shelter care facility, or residential care center for children and youth by that foster parent, treatment foster parent, or relative, by any other person who resides in the home of the foster parent, treatment foster parent, or relative, by any relative of the foster parent, treatment foster parent, or relative, or by any employee, contractor, or volunteer of the group home, shelter care facility, or residential care center for children and youth. The department shall provide for each report included in the summary report the number of incidents of abuse reported; the dates of those incidents; the county in which those incidents occurred; the age or age group of the child who is the subject of the report; the type of placement in which the child was placed at the time of the incident; whether it was determined under sub. (3) (c) 4. that abuse occurred; and whether the abuse resulted in injury, disease, or pregnancy, but may not provide any of the information specified in sub. (7) (cr) 6. or any information that would jeopardize an investigation, prosecution, or

**BILL****SECTION 5**

1 proceeding described in sub. (7) (cr) 7. a. or b. Those committees shall review all  
2 summary reports transmitted under this paragraph, conduct public hearings on  
3 those summary reports no less often than annually, and submit recommendations to  
4 the department regarding those summary reports. The department shall also make  
5 those summary reports available to the public.

6 **SECTION 6.** 48.981 (9) (b) of the statutes, as created by 2009 Wisconsin Act ....  
7 (this act), is amended to read:

8 48.981 (9) (b) *Quarterly reports.* Within 30 days after the end of each calendar  
9 quarter, the department shall prepare and transmit to the governor, and to the  
10 appropriate standing committees of the legislature under s. 13.172 (3), a summary  
11 report of all reports received by the department under sub. (3) (c) 8. during the  
12 previous calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who  
13 is placed in the home of a foster parent, ~~treatment foster parent~~, or relative other  
14 than a parent or in a group home, shelter care facility, or residential care center for  
15 children and youth by that foster parent, ~~treatment foster parent~~, or relative, by any  
16 other person who resides in the home of the foster parent, ~~treatment foster parent~~,  
17 or relative, by any relative of the foster parent, ~~treatment foster parent~~, or relative,  
18 or by any employee, contractor, or volunteer of the group home, shelter care facility,  
19 or residential care center for children and youth. The department shall provide for  
20 each report included in the summary report the number of incidents of abuse  
21 reported; the dates of those incidents; the county in which those incidents occurred;  
22 the age or age group of the child who is the subject of the report; the type of placement  
23 in which the child was placed at the time of the incident; whether it was determined  
24 under sub. (3) (c) 4. that abuse occurred; and whether the abuse resulted in injury,  
25 disease, or pregnancy, but may not provide any of the information specified in sub.

**BILL**

1 (7) (cr) 6. or any information that would jeopardize an investigation, prosecution, or  
2 proceeding described in sub. (7) (cr) 7. a. or b. Those committees shall review all  
3 summary reports transmitted under this paragraph, conduct public hearings on  
4 those summary reports no less often than annually, and submit recommendations to  
5 the department regarding those summary reports. The department shall also make  
6 those summary reports available to the public.

7 **SECTION 7. Initial applicability.**

8 (1) INCIDENT REPORTING. This act first applies to an incident of death or serious  
9 injury, as defined in section 48.981 (7) (cr) 1. a. of the statutes, or an incident of  
10 egregious abuse or neglect, as defined in section 48.981 (7) (cr) 1. b. of the statutes,  
11 that occurs on the effective date of this subsection.

12 **SECTION 8. Effective dates.** This act takes effect on the first day of the 3rd  
13 month beginning after publication, except as follows:

14 (1) TREATMENT FOSTER HOMES. The amendment of section 48.981 (9) (b) of the  
15 statutes takes effect on the date stated in the notice provided by the secretary of  
16 children and families and published in the Wisconsin Administrative Register under  
17 section 48.62 (9) of the statutes, or on the first day of the 3rd month beginning after  
18 publication, whichever is later.

19 (END)

**Duerst, Christina**

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**From:** Kahn, Carrie  
**Sent:** Friday, September 11, 2009 4:45 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2744/2 Topic: Disclosure of information relating to death or near death of child due to abuse or neglect

Please Jacket LRB 09-2744/2 for the SENATE.